



U.S. Department of Justice

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Via Fax (503-578-3600) and First Class Mail

June 10, 2005

CLERK, U.S. DISTRICT COURT
ANCHORAGE, ALASKA

Paul G. Shearer
1532 Meadows Drive
Lake Oswego, Oregon 97034

Re: *United States v. 3.05 Acres of Land et al.*, A03-0269-CV (JKS)(D. Alaska)

Dear Mr. Shearer:

Dean Dunsmore and I thought it would be helpful to write regarding your discovery obligations and the upcoming deadlines for your production of information to the United States. As we have repeatedly discussed with you, despite your unrepresented status, Dean and I cannot give you legal advice. If you need substantive or procedural legal advice, you may wish to consult with or retain an attorney. Although the United States' is determined to provide fair and just compensation for you, we represent the legal interests of the United States, which may be adverse to you at any given point in the case.

With that in mind, please find below our expectations. The United States is hampered in its defense by your failure to produce the complete title chain and supporting documents you previously agreed to provide. Many of our discovery requests seek to elicit this same information. The United States pursued this path instead of raising with the Court your failure to produce the title chain and documents. More than six years have passed since the date of consent, thus there is no reason for your incomplete list of claims and failure to produce supporting evidence. Since the beginning of this litigation, the United States has given you substantial time to produce a list of your claims and the support therefor. Absent serious extenuating circumstances, the United States requests you produce full and complete responses.

As part of this effort, on May 11, 2005, the United States served written discovery (interrogatories, requests for production and admission) on both you and your wife, Kathryn McCready. Responses to that discovery are due June 13, 2004. A party's obligations in responding to discovery are set forth in the Federal Rules of Civil Procedure referenced in the discovery served on you and Ms. McCready. While you may be representing yourself, you are expected to meet and comply with these rules of procedure. Full and complete responses to that discovery are needed if the current deadlines are to be met. If full and complete responses are not received, the United States will take appropriate actions to compel adequate responses.

With respect to the requests for production, we expect, at a minium, that you will produce all of the materials requested at the time and place stated in the request for examination and copying by the United States. Therefore, the rules of procedure require you to respond to the request for production by June 13, 2005, with a statement as to whether the documents will be produced as requested. A responding party is not required to actually make copies and deliver them to the requesting party. However, the making of such copies is often the most convenient and


expeditious method for the responding party. In such case the produced materials are copied and transmitted with or prior to the written discovery response, and there is no need for the later physical production to occur. As you know, the United States has already made extensive materials available to you and provided requested copies without charge. However, until all documents you have copied are received, the United States will be unable to determine if the requested physical production on Monday, June 20, 2005, in Anchorage, Alaska, can be withdrawn.

The United States reminds you that it is your duty to produce the requested documents that are in your possession or in the possession of your agents or representatives. It is insufficient to state that the United States or the Park Service already has copies of the documents. Although the Government may or may not already have copies of some of the requested documents, one of the purposes of document production is to eliminate any disputes as to the actual documents that are at the core of the litigation and claims. For example, while the Government may have a copy of a certain deed, the United States needs to know that this is a copy of the same deed upon which you may be relying. Significantly, written summaries (as to the identity and content of a requested document) do not constitute an acceptable substitute for the production of actual documents in your possession, or the possession of your agents or representatives.

The United States has also served a notice on you for the taking of your deposition in Anchorage, Alaska, commencing on June 28, 2005. That date was selected so that the United States could review your discovery responses and determine if that deposition is needed at this time, and, if so, focus and hopefully shorten the deposition. Simply stated, full, complete and on-time responses to the written discovery are needed. The United States, therefore, will be unable to agree to defer discovery responses to the date of the noticed deposition. However, if we determine that you have successfully produced complete and full responses to our requests, so that we have a complete title chain and supporting documents, we may be able to withdraw our notice of deposition.

Dean and I hope that this letter is helpful. We continue to be willing to do whatever is reasonable to help you move this litigation forward, but it is necessary to take a harder line on production of information lest the United States be held back in its defense of this case or this case continue to drag forward without achieving our mutual goal of bringing this matter to a close. As always, please feel free to contact me with any questions or concerns.

Sincerely,



Paul Harrison
Trial Attorney

cc: Lisa Toussaint, DOI, 907-271-4143
Dean Dunsmore, DOJ, 907-271-5827